

MEETING MINUTES – Meeting # 4

Biosolids Rule Revision Advisory Group (BRRAG)

October 13, 2006

WELCOME – OPENING REMARKS

- Daniel K. Thompson welcomed everyone to the last scheduled BRRAG meeting.
- **Attendance:** Kathleen Deason, Kyle Dorsey, Shelly Eisenbarth, Dick Hetherington, Roberta King, Jim Leier, Doug Miller, Kathi Scanlan, Daniel C. Thompson, Daniel K. Thompson, and Kelly Wynn.
- **Absent:** Tony Barrett, David Bosch, Mike Chapman, Michael Coster, Roger Hickey, Arlie Huffman, and Larry Short.
- **Observer:** Marietta Sharp (Marietta) joined the meeting later in the morning. Upon group approval, Marietta was allowed to address the group throughout the meeting rather than waiting until the end.

COMMENTS/SUGGESTIONS ON SECTION 320 – PERMIT FEES

- Daniel K. Thompson (Daniel K.) explained the proposed rule language, beginning with Section 320 – Permit Fees.
- As per the request made by the BRRAG in Meeting #3, Daniel K. tried to come up with an estimate of the average cost to process/handle a permit at an average facility. However, this estimate was not easy to come by because Ecology staff do not track their time per facility(ies). Ecology staff met to discuss the issue and agreed that a better answer could be provided on the average cost to process/handle a permit, but it would take some time in the future to track this information. As an aside, Daniel K. indicated that he doesn't think this would be time well-spent. Instead, since there are ~375 facilities and Ecology is committing ~6.1 FTEs toward program implementation, the best estimate available right now would be that the average cost per facility is ~\$1,650.
- Daniel K. initially considered 3 approaches to the fee structure and eventually settled on the following fee structure approach for the rule language:
A cost of \$535.00 will be assigned to the first residential equivalent (RE). This cost will be adjusted by the fiscal growth factor as determined under chapter 43.135 RCW. Each subsequent RE will be charged at a rate determined by the management practice utilized.
- Daniel C. Thompson (Daniel C.) asked if other fees were considered with this and added that due to additional fees charged by Tacoma-Pierce County Health Department, the City of Tacoma and other Pierce County producers are essentially paying a double fee. Daniel C. suggested that perhaps a discount could be considered for facilities in such situations. Daniel K. responded that none of those fees are considered in this. The proposal is to cover the costs of the current Ecology staff working on implementing the biosolids program statewide, regardless of any fees that may be charged by a local health jurisdiction.
- Kyle Dorsey (Kyle) responded that in the past we couldn't figure out how to discount.
- Kyle had a problem with the \$535 fee. He suggested a higher fee for new facilities such as a beneficial use facility, which takes longer to permit. The cost of permitting a new facility is greater than the cost of permitting an existing facility. A suggested estimate Kyle provided for permitting a start-up facility was \$5,000.
- Roberta King (Roberta) said that imposing higher fees for start-ups would have the added advantage of discouraging "fly-by-nights".

- Daniel K. said adding a simple additional sentence for start-ups or new facilities and a \$5,000 or something similar would be relatively easy, and then we would still keep with the \$535 fee for other facilities.
- Kelly Wynn (Kelly) asked what the time-cost for new facilities is?
- Shelly Eisenbarth (Shelly) responded that initially it would be 40+ hours, and added it does take longer to research and permit a new facility.
- Kathleen Deason (Kathleen) said that you pay \$400 for a health department person just to come out and look at septic system proposals followed by additional fees as the permit process proceeds, so it is not unreasonable to ask people to pay more for start-up costs.
- Kelly said that an application implies at least one RE. What if you have an application fee that is based on RE that is \$535 and one fee that is based on a permit \$5000+. Daniel K. said that we are talking about the taking almost the opposite approach; i.e. charging the equivalent of a \$5000 fee for the application then \$535 minimally for the permit.
- Kyle reiterated his suggestion that Ecology should try to incorporate some charge for evaluating proposals.
- Daniel C. added to Kelly's comments and suggested that Ecology charge an initial fee upfront to weed out those who are serious (for those feasible projects) then charge another other fee as the process proceeds.
- Daniel K. asked the BRRAG if there were any objections to the \$535 fee, and asked: what is your feeling on that fee amount?
- Dick Hetherington (Dick) thinks the \$535 is too small as it doesn't provide for more FTE's for delegation issues, etc.
- Others in the BRRAG generally responded favorably to the \$535.
- Kelly suggested \$600 and said Ecology should be trending towards raising the smaller facilities' fees and lowering the larger facilities' fees.
- Doug Miller (Doug) said it looks like the Fiscal Growth Factor (FGF) is not multiplying the \$535 in the proposed rule language text that was handed out to the group. Daniel K. responded to Doug and said it was intended to be there.
- Kathleen asked if the program fees are used for compliance, enforcement, etc. Daniel K. responded that it includes everything for implementing the program except for enforcement.
- Dick asked if Ecology has a formal inspection program? Daniel K. responded and said the biosolids program does not have a formal inspection program, but some regions may. Generally the approach is more commonly to write a report or a follow-up letter rather than completing a full inspection form. Most if not all regions track where they've been and what they observed—whether as part of a formal inspection or a site visit. In the past Daniel K. said he had a form but transitioned to writing a report.
- Dick asked Daniel K. if he has any idea of how many inspections are done. Daniel K. responded that almost all land application sites are inspected at least once a year.
- Kyle said the health departments to do it (inspect) quarterly.
- Marietta Sharp (Marietta) added that in the last month she performed at least 40.
- Shelly Eisenbarth (Shelly) added that she has done informal inspections at some of the septage facilities on several occasions this year and last year. She stated that instead of completing an inspection form, she compiles notes, and sometimes these go into a monthly report.
- Jim Leier (Jim) said there is an inspection template in the WQ Program. He suggested that maybe it's worth looking at it for the biosolids program.
- Kelly added that he'd like to see the Dept. of Ecology person at least once a year and thinks the \$535 is enough to cover one visit.

- Daniel K. asked the group if there is a real need to visit lagoon facilities, and added that Ecology focuses on the projects that need attention.
- Kathleen said that in Douglas County we receive biosolids from King County. As a result, we receive reports but we would like to see that there is some type of third party mechanism. I see that third party being Ecology.
- Roberta added that King County and several other NW agencies have an environmental management system (EMS) with third party audits to make sure we are doing things in accordance with our plans and the regulations, and added it's a national program developed by the National Biosolids Partnership. The objective is third party certification. [Before the EMS program, KC hired consultants to audit each of our projects, including site visits and records; EMS replaced this approach and covers the entire biosolids process, beginning with pretreatment/source control and ending at field sites.]
- Daniel K. asked if the auditors are looking at other WWTPs that bring biosolids into Boulder Park Inc. (BPI) as well as King County's biosolids that are managed there?
- Roberta responded that BPI had to go through the EMS training and field audits, but she's not sure if the 3rd party auditors look at the management at BPI of the biosolids from other WWTPs. Roberta said she would look into this. [Follow-up note: Each WWTP adopts the KC site specific land application plan, and BPI operates and keeps integrated records for the entire project. Several other agencies that take biosolids to Boulder Park are developing their own EMS. An audit of KC records could be considered a subsample of all records, because BPI follows sample procedure for all biosolids applied in their program.]
- Dick asked if you can increase the budget for inspections and general data collections (like the NPDES and Air Program) and distinguish from an extensive inspection vs. a drive-by, etc.
- Daniel K. said that all the information is there (in the reports and notes). It might just mean a new way of collecting that information for Ecology. Daniel K. added that Ecology is moving all the information into a solid waste database--the biosolids piece will be added later next year, including inspections and other data.
- Doug suggested that Ecology should have a reduced fee for very large facilities. Daniel K. responded that we could write language providing a reduced charge per RE after a certain threshold has been met and asked the BRRAG about their thoughts on that suggestion.
- Kyle suggested that Ecology charge less for the upper limit of RE's.
- Daniel K. said he will work towards language that charges less per RE above a certain threshold—e.g. 100,000 REs. This would reduce the fee charged to only the largest producers.
- Kyle said he thinks that a cap is generally a bad idea, but a reduced charge for REs above a certain point makes sense.
- Kelly suggested go to \$600 then take the \$65 differential from the \$535 and apply it to the 13 larger facilities as a discount across those facilities.
- Doug asked, for publicly-owned facilities, do you have to pay a separate fee for a BUF (e.g. a land application site)? Daniel K. said that if a POTW wished to permit a BUF, that would be a separate facility. He added, however, that it would be unwise to do it that way when the POTW could simply cover their site under their existing permit then expand that site(s) as needed. Under that scenario there would be no additional fees.
- Doug suggested that Ecology add in a FGF sentence in the (below) section (v) because it was added in sections (i) through (vi):
 - (v) *\$0.215 per residential equivalent for permits authorizing any other type of solids management activity, including but not limited to the following:*
 - (A) *Direct beneficial use by a treatment works treating domestic sewage;*

- (B) Transfer from one facility to another facility, including delivery to an incinerator from nonincinerating jurisdictions;*
- (C) Prolonged treatment or storage, including lagoon systems;*
- (D) Treatment or land application of septage;*
- (E) Disposal of sewage sludge in a municipal solid waste landfill except for facilities under (e)(ii) of this subsection.*

- Doug asked if there is any way we can get a credit for interceptor tanks in a step system? The reason for the question is a concern of double charging the homeowners. Each tank on an individual owner's lot has to be pumped at a set interval. The effluent is centrally collected and treated, and a biosolids product results. When the homeowner has their tank pumped, they'll be charged by the hauler per 1,250 gallons to pay for their biosolids permit. Then, as part of their monthly charge, the utility will be charging them to pay for their biosolids permit fee. So, the homeowner may be charged twice for the solids they produce. Doug added that he's still generally in favor of Ecology's fee structure.
- Kyle said the argument would be for any type of similar setup. Kyle guesses there are probably a dozen-or-so similar systems.
- Kelly added that I think Doug is confused about the 1,250 gallons value and asked is that per year? Kelly added that if the pumping occurs every 3 years, the amount being pumped per year would be divided by 3, so rather than paying for 1,250 gallons per year, the homeowner is really only paying for about 417 gallons per year. Kelly said that you may have to assess REs at a lower number of gallons/RE for septage because pumping does not occur every year.
- Kyle added that would increase the septage costs 3x if you assumed pumping every 3 years. The 1,250 gallon-estimate was based on the average tank with recognition that it would only be pumped occasionally.
- Daniel K. said the difference in this case for an individual homeowner would be the additional charge for the fraction of the minimum fees charged to the utility and the hauler/land applier who has a separate permit. The difference would likely be tiny overall even for a homeowner on a system with few customers. In addition, most haulers/pumpers don't even have a biosolids permit, so in most cases there would be no additional fee assessed to pay for a biosolids permit fee.
- Daniel K. said that he gets the sense that there is no strong opposition to the presented fee structure, except for EPA who wants Ecology to collect higher fees so that it can support an FTE commitment that could handle full delegation of the federal program.
- As a group the BRRAG agreed there is no strong opposition to the fee structure presented in the draft rule language.

ADDITIONAL COMMENTS TO DRAFT RULE AMENDMENTS

- Daniel said that he received very few comments on the other sections of draft rule language. A limited amount of comments were received and a response was prepared for each of the comments.

WAC 173-308-280 Requirements for facilities storing biosolids or sewage sludge.

- Daniel K. provided an overview on the 280 storage proposed amendments and relayed that extensive comments from one BRRAG member were received on this particular issue. Daniel K. said he revised the rule based on comments received and created a second draft that emphasized a requirement for submittal of a simple plan for operations that store biosolids that have not met a VAR standard. The plan would have to address how the operation is protective of human health; plan elements might include: site location, the timing

of storage, temporary cover measures, and other means that can be used to minimize the risk of transfer of potential pathogens from stored non-VAR biosolids. The original draft disallowed storage of such material without the explicit approval of the regulatory authority.

- Dick said that in a delegated situation, in terms of the 501 rules, EPA has problems with this because EPA runs into storage situations that we consider disposal. Daniel K. responded and said the definition of storage has a two-year limit.
- Jim asked about being “protective of groundwater” issues. Jim asked if the standards of WAC 173-350 are protective to the extent of 200. Jim said he wanted to make sure you/SWFAP are protective of groundwater because you need a double-liner with groundwater monitoring. Daniel K. responded that he is right and that the 350 standards for surface impoundments are designed to be protective of groundwater and include either a double-liner with leak detection or a single-liner with groundwater monitoring.
- Kyle asked what was behind the decision to address the VAR issue for stored biosolids? He has an overall concern with the regulatory approach for VAR, including that the standards for determining VAR are questionable. Daniel K. responded that odor issues and some neighbor complaints came into play with the VAR standards. Ecology wanted to ensure: 1) minimization of transport of potentially-disease-causing organisms and 2) that Ecology has a chance to review a plan submitted by the permittee that addresses #1. Specific written-approval is not required for the plan, but Ecology could object to the plan and the practice and could impose stricter standards in a final coverage letter—which could be appealed by the permittee.

WAC 173-308-### Exemptions for composting toilets.

- Daniel K. explained that composting toilet systems are generally SMFs, but the draft section exempts certain ones from the permitting and reporting requirements.

WAC 173-308-### Importing biosolids or sewage sludge from treatment works located outside of the jurisdiction of the department.

- Daniel K. identified three possibilities: two for bulk and one for bag, where approval is needed. The only comment received by Ecology on this part of the rule was regarding changing “objection” to “sustainable objection”. The initial response was to not change.
- Kyle responded that “sustainable/reasonable” objections are mentioned throughout the rule. He suggested Ecology consider it for consistency—to protect the regulators and the permittees.
- Dick said it’s understood the state has the right to judge the significance of the objections.
- Daniel K. decided that since Ecology will ultimately have to determine the reasonableness of any objections, it is appropriate to use the phrase, “sustainable objection”.
- Marietta’s asked whether or not Boulder Park could accept exported material, and should they be a BUF? Daniel K. said that in his mind Boulder Park does not fall into the category of entities that could accept exported material because they are not permitted as a BUF.
- Roberta asked, who pays the permit fee? Daniel K. said the receiving facility would pay the fee if the exporter goes to a facility permitted to manage their material, and the fee would be based on the percent of the biosolids production of the exporter that is sent to the receiving facility. However, if the exporter permits their own site, they’ll need a full permit and will have to pay the fee based on the percent of their output that they export into the state.
- Kyle said it doesn’t make sense to collect the full cost if you’re not doing a complete permit approval. At a minimum, Ecology has to charge a fee from, for example, Tulalip (tribes) or Portland (another state).

- Daniel K. said he likes the idea of not capping the BUF fee for out-of-state biosolids while retaining the cap for in-state biosolids and will work on language in the fee section to address this.

WAC 173-308-### Exemptions for research.

- Daniel K. clarified the proposed 5-acre limit was extended 10 acres for a given continuous site.

WAC 173-308-### Significantly remove garbage.

- Daniel K. said that one commenter submitted several comments regarding this proposed section. Based on the comments and some internal discussion, Ecology revised it to require screening, with grinding being eliminated as the primary mechanism to reduce recognizables. The main reason to not allow grinding in place of screening or another method that actually removes garbage is that grinding only reduces the size of garbage in the biosolids—it doesn't remove the garbage.
- Daniel C. said most ST requires screens.
- Kyle doesn't understand why Ecology would allow for current facilities *not* to screen (e.g., lagoons/materials in lagoons).
- Dick asked if you are going to accept anything coming out of the digester? Daniel K. said yes, if it is reasonably free of garbage. Dick also asked, is the emphasis on the screening? Dick added that Ecology's base thinking should be the end (product). Daniel K. responded that yes, this is our thinking and that we will focus on the end product.
- Doug said that he thinks there should be a site-specific flexibility here. The screening issue goes back to the NPDES permit. The screening is on the producer end.
- Roberta asked how long would treatment plants have to comply. Daniel K. said it was a year. Roberta responded that this may be a considerable expense and that based on King County experience, it may require years of pre-design, design and construction to retrofit a plant.
- Dick suggested putting a number on what is significant.
- Kyle suggested ½ inch or 3/8 inch or a garbage level standard.
- Daniel C. said that he likes the idea of a subjective trigger but that he also would appreciate an objective standards. He also asked the group what is the definition of "garbage"? The BRRAG did not provide one, but Daniel K. said that he would work on it.
- Kathleen asked if there is the capacity to screen (septage) before it is land applied. Daniel K. responded, yes.
- Daniel K. agreed to work on this section more before sending out draft rule language for review.

SEPTAGE

WAC 173-308-080 Definitions.

WAC 173-308-270 Domestic septage management requirements.

WAC 173-308-310 Permitting.

- Daniel K. provided an overview of significant changes to the rule.
- Kyle suggested Daniel K. develop a table that identifies significant changes in the septage section of the rule—given the text changes in the draft, it was hard to tell what changed.

Daniel K. agreed to develop a simple table and include this in the 2nd draft of the septage section.

NEXT STEPS

- Daniel K. will send out on Oct. 30th a draft revised rule to the BRRAG. The BRRAG agreed to a two week deadline for review and comment (deadline November 15). Daniel K. emphasized that this is the last time that the BRRAG will have to comment on the rule prior to the filing of the CR 102 when the draft revised rule will go out to the public, interested parties, and other stakeholders for review and comment. [Follow-up. Daniel K. sent out a draft revised rule on November 7th and requested review and comments from the BRRAG by November 22nd.]